

RESOLUTION NO. 2020-24

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALAMITOS, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF A CERTAIN MEASURE RELATING TO ONE & ONE-HALF CENT (1.5%) SALES TAX (TRANSACTIONS AND USE) AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, AS CALLED BY RESOLUTION NO. 2020-11

WHEREAS, a General election on Tuesday, November 3, 2020, has been called by Resolution No. 2020-11, and consolidated with the County of Orange by Resolution No. 2020-12, adopted on June 15, 2020, and,

WHEREAS, the City Council also desires to submit to the voters at the election a question relating One & One-half Cent (1.5%) Sales Tax (Transactions and Use); and,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CITY OF LOS ALAMITOS CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

CITY OF LOS ALAMITOS QUALITY OF LIFE, 911 POLICE RESPONSE, BUSINESS/JOB PROTECTION MEASURE. To ensure quality of life services by preserving 911 police response with local control; protect local businesses, maintain local jobs; prevent property crime; protect neighborhood/park police patrols, street maintenance, youth, senior programs, other essential services; protect long-term fiscal sustainability, shall the City of Los Alamitos measure establishing 1.5¢ sales tax providing approximately \$4,100,000 annually until ended by voters be adopted, requiring independent audits, public spending disclosure, ensuring all funds stay in Los Alamitos?	YES
	NO

SECTION 2. That the proposed measure submitted to the voters is attached as Exhibit A.

SECTION 3. That the vote requirement for the measure to pass is a majority (50%+1) of the votes cast.

SECTION 4. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

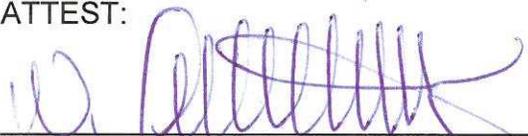
SECTION 5. That notice of the time and place of holding the election is given and

the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

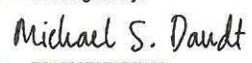
SECTION 6. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED AND ADOPTED this 20th day of July, 2020.


Richard D. Murphy, Mayor

ATTEST:

Windmera Quintanar, MMC, City Clerk

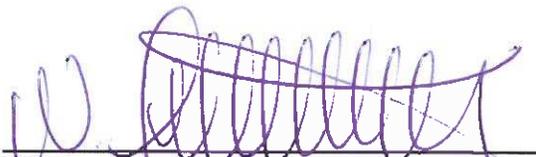
APPROVED AS TO FORM:

DocuSigned by:

Michael S. Daudt, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF LOS ALAMITOS)

I, Windmera Quintanar, MMC, City Clerk of the City of Los Alamitos, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council held on the 20th day of July, 2020, by the following vote to wit:

AYES:	COUNCILMEMBERS:	Hasselbrink, Doby, Grose, Chirco, Murphy
NOES:	COUNCILMEMBERS:	None
ABSENT:	COUNCILMEMBERS:	None
ABSTAIN:	COUNCILMEMBERS:	None


Windmera Quintanar, MMC, City Clerk

ORDINANCE NO. 2020-06

AN ORDINANCE OF THE CITY OF LOS ALAMITOS, CALIFORNIA, ADDING CHAPTER 3.14 TO TITLE 3 OF THE LOS ALAMITOS MUNICIPAL CODE IMPOSING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE CALIFORNIA DEPARTMENT OF TAX AND FEE ADMINISTRATION

WHEREAS, people live in Los Alamitos because it offers a better quality of life and better services than other nearby communities; and,

WHEREAS, due to Sacramento takeaways, Los Alamitos has lost almost \$13 million in local property tax dollars since 1992, and is continuing to lose another \$770,000 every year; and,

WHEREAS, the 20-year long term plan shows that the annual deficit for 2021-22 will be \$1.652M and grows to over \$3.7 annually by 2030-31; and,

WHEREAS, The City of Los Alamitos has consistently managed a balanced budget for the past 10 years, focusing on being fiscally responsible and making the hard decisions to cut costs and staff as financial realities change; and,

WHEREAS, the City over the last ten years has been very fiscally responsible by lowering costs, including reducing the workforce by 26 full-time positions, reducing healthcare subsidies, implementing a 2-tiered retirement program and 3-tiered salary schedule, and contracting out for various city services including street sweeping thereby reducing costs while maintaining many essential city services; and,

WHEREAS, the City faced a \$1.347 million structural budget deficit for fiscal year 2020-21. The City temporarily addressed this structural deficit by furloughing staff; reducing pay for city employees; cutting 10 FT/PT city positions, including 4 police and one code enforcement officer positions; reorganizing the Recreation and Development Services Departments; and reducing other city services; and,

WHEREAS, the City combines a small-town ambience and desires to maintain a high quality of life to ensure that the community is a nice place to live, work, visit, and conduct business; and,

WHEREAS, public safety is a top priority in Los Alamitos and represents over 47% of the City's General Fund budget, and without additional revenue the City will be forced to significantly cut public safety services, including gang and drug prevention, neighborhood police patrols, and consider reducing senior and youth community programs and other essential City services; and,

WHEREAS, the City desires to maintain and keep rapid 9-1-1 emergency and quick response times, and retain and attract qualified police officers, so that people of Los Alamitos will continue to receive vital police protection services; and,

WHEREAS, among other priorities the City seeks to continue to maintain vital senior and youth programs and numerous community events; and,

WHEREAS, the City strives stto stimulate local economic growth and create more good-paying local jobs for residents, and the additional funds will help Los Alamitos remain attractive to businesses, visitors and homebuyers strengthening local property values; and,

WHEREAS, this measure will help to maintain funding for local streets, roadways and park and playground equipment maintenance and repair, repair and maintain city facilities including the Community Center, Police Station, City Hall and Public Works Yards; and,

WHEREAS, additional revenue will allow the City to repair local storm drain systems to prevent flooding; to maintain safety; and help to repair streets and potholes; and,

WHEREAS, this measure will help local property values by making sure Los Alamitos has well-maintained streets, safe and clean neighborhoods, and high quality public safety services, keeping property values strong; and,

WHEREAS, sales taxes are not charged on food purchased as groceries or prescription medication, limiting the measure's impact on Los Alamitos residents; and,

WHEREAS, in light of the structural deficit, additional revenues are needed in order to preserve essential city services and the high quality of life in Los Alamitos; and,

WHEREAS, all additional revenues raised by this measure will be used to fund essential city services in Los Alamitos, and cannot be taken away by the state or used for other purposes; and,

WHEREAS, the additional revenues raised by this measure will be subject to a clear system of accountability, including annual independent financial audits, adopting annual City budgets during a public meeting and publishing the entire City Budget and Comprehensive Annual Financial Report online to ensure that all funds are accounted for and spent property.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF LOS ALAMITOS, CALIFORNIA, DO ORDAIN AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct, and are incorporated herein by reference.

SECTION 2. Subject to and contingent upon the voter approval requirements set forth in Section 3 of this Ordinance, Chapter 3.14 – Transactions and Use Tax is hereby added to Title 3 (Revenue and Finance) of the Los Alamitos Municipal Code to read as follows:

3.14.010 Short title.

This chapter shall be known as the “Los Alamitos Transactions and Use Tax Ordinance.” The city of Los Alamitos hereinafter shall be called “City”. This chapter shall be applicable in the incorporated territory of the City.

3.14.020 Operative date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of the ordinance enacting this chapter, the date of such adoption being as set forth below.

3.14.030 Purpose.

This chapter is adopted to achieve the following, among other purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

B. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

C. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the California Department of Tax and Fee Administration in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the California Department of Tax and Fee Administration in administering and collecting the California State Sales and Use Taxes.

D. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same

time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this chapter.

3.14.040 Contract with State.

Prior to the operative date, the City shall contract with the California Department of Tax and Fee Administration to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the California Department of Tax and Fee Administration prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

3.14.050 Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one and one-half percent (1.5%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said territory on and after the operative date of the ordinance enacting this chapter.

3.14.060 Place of sale.

For the purposes of this chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the California Department of Tax and Fee Administration.

3.14.070 Use tax rate.

An excise tax is hereby imposed on the storage, use or other consumption in the City of tangible personal property purchased from any retailer on and after the operative date of this ordinance for storage, use or other consumption in said territory at the rate of one and one-half percent (1.5%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

3.14.080 Adoption of provisions of State law.

Except as otherwise provided in this chapter and except insofar as they are

inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this chapter as though fully set forth herein.

3.14.090 Limitations on adoption of provisions of State law and collection of use taxes.

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, State Treasury, or the Constitution of the State of California;

2. The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the California Department of Tax and Fee Administration, in performing the functions incident to the administration or operation of this chapter.

3. In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;

b. Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

1. "A retailer engaged in business in the District" shall also include any retailer that, in the preceding calendar year or the current calendar year, has

total combined sales of tangible personal property in this state or for delivery in the State by the retailer and all persons related to the retailer that exceeds five hundred thousand dollars (\$500,000). For purposes of this section, a person is related to another person if both persons are related to each other pursuant to Section 267(b) of Title 26 of the United States Code and the regulations thereunder.

3.14.100 Permit not required.

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this ordinance.

3.14.110 Exemptions and exclusions.

A. There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

B. There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

- a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

C. There are exempted from the use tax imposed by this ordinance, the storage, use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

3. If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subparagraphs (3) and (4) of this section, storage,

use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

3.14.120 Amendments.

All amendments subsequent to the effective date of this chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this chapter, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this chapter.

3.14.130 Enjoining collection forbidden.

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any

tax or any amount of tax required to be collected.

3.14.140 Severability.

If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 3. Approval by the Voters. Pursuant to California Elections Code section 9217 and Revenue and Taxation Code section 7285.9, this Ordinance and the transactions and use tax contemplated herein shall take effect only if approved by a majority of the eligible voters of the City of Los Alamitos voting at the Regular Election of November 3, 2020, and shall take effect ten (10) days after the City Council has certified the results of that election by resolution.

PASSED, APPROVED, AND ADOPTED this 27th day of July, 2020.

Richard D. Murphy, Mayor